

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 17-cr-00064-DWF-KMM

Plaintiff,

ORDER

v.

Edward S. Adams,

Defendant.

David Michael Maria / John E. Kokkinen, United States Attorney's Office, counsel for the government

Deborah A. Ellingboe / James L. Volling, Faegre Baker Daniels LLP, and Joseph G. Petrosinelli / Lance A. Wade / Sarah Lochner O'Connor, Williams & Connolly LLP, counsel for Mr. Adams

This matter is before the Court on Edward Adams's Motion to Exclude Time Under the Speedy Trial Act ("Speedy Trial Motion"), ECF No. 26, and Motion for Entry of Scheduling Order and Setting of Trial Date ("Scheduling Motion"), ECF No. 28.

Scheduling Motion

The schedule in this case was issued on March 31, 2017, *see* Mins., ECF No. 9, and entered as a formal order on April 3, 2017, Arraignment Order, ECF No. 11, but was essentially disregarded by both sides as they worked to propose a new schedule. Mr. Adams's Scheduling Motion now seeks to amend the existing schedule based on the late date at which counsel was retained, the complexity of the case, and the substantial amount of discovery that has recently been provided by the government. Scheduling Mot. at 1. The government agrees that a new schedule is appropriate, but argues that Mr. Adams's proposed schedule is "unreasonably protracted." Gov't's Resp. to Mot. for Scheduling Order ("Gov't's Resp."), at 1, ECF No. 32.

In consultation with the District Court, the Court finds that Mr. Adams has established good cause for amending the schedule in this case, but declines to adopt either his or the government's proposed schedule in full. Instead, the schedule set forth below balances the need for significant preparation time on the part of the defense with the government's concerns.

Speedy Trial Motion

In support of his Speedy Trial Motion, Mr. Adams indicates that he retained counsel after several of the Court's deadlines had passed, that the activities alleged in the indictment span more than a decade, that there will likely be a significant amount of discovery in this case, and that the corporate transactions discussed in the indictment are complex enough to require more time than the Speedy Trial Act contemplates by default to prepare a defense. Statement of Facts in Supp. of Exclusion of Time Under Speedy Trial Act, at 1-2, ECF No. 27. The Court finds that Mr. Adams has shown good cause for adjustments to the schedule, and pursuant to 18 U.S.C. § 3161(h)(7)(A), the Court finds that the ends of justice served by the granting of a continuance outweigh the interest of the public and the defendant in a speedy trial. Moreover, the Court agrees that the schedule amendments granted pursuant to Mr. Adams's motion constitute excludable delay for purposes of the Speedy Trial Act. The specific dates that are excludable are detailed below.

Jencks Act Material

Mr. Adams's Scheduling Motion also requests that the government provide Jencks Act disclosures at least sixty days prior to trial. Scheduling Mot. at 8-9. As the Court noted during its recent telephonic status conference with the parties, the Jencks Act prohibits compelling the disclosure of witness statements until the witness has testified at trial. 18 U.S.C. § 3500(a).

Traditionally, in our district, the government acknowledges that the interests of fairness and efficiency are served by disclosure of Jencks Act material ahead of trial. Such interests can only be served in a complex case like this if those disclosures are made well ahead of the scheduled trial date. In order to avoid the need for a last-minute continuance, the Court encourages the government to disclose Jencks Act material no later than thirty days before trial, and to advise opposing counsel well of ahead of time when such disclosure can be expected.

Conclusion

Based on the foregoing, Mr. Adams's Motion to Exclude Time Under the Speedy Trial Act, ECF No. 26, is **GRANTED**. Mr. Adams's Motion for Entry of Scheduling Order and Setting of Trial Date, ECF No. 28, is **GRANTED IN PART AND DENIED IN PART**. The following schedule will govern this case. Because it permits both sides very significant preparation time, any subsequent request for extension will require a unique and strong showing of good cause.

Accordingly, it is **HEREBY ORDERED** that:

1. The government must make all disclosures required by Federal Rule of Criminal Procedure 16(a) by **May 30, 2017**.
2. Defendant must make all disclosures required by Federal Rule of Criminal Procedure 16(b) by **September 8, 2017**.
3. All pretrial motions in the above-entitled case must be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **September 27, 2017**.
4. Counsel must electronically file a letter on or before **September 27, 2017**, if no motions will be filed and there is no need for hearing.
5. All responses to motions must be filed on or before **October 18, 2017**.
6. Both parties' Notice of Intent to Call Witnesses must be filed by **October 25, 2017**.
7. If necessary, a pretrial motions hearing will take place before Magistrate Judge Katherine Menendez on **November 1, 2017**, at **9:00 a.m.**, in **Courtroom 8E**, U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.
8. The government must make its expert disclosures on or before **December 7, 2017**.
9. Mr. Adams must make his expert disclosures on or before **January 8, 2017**.

10. The government must provide its disclosures of Rule 404(b) evidence on or before **February 23, 2018**.

11. TRIAL:

- a. All trial-related motions, including motions in limine, must be submitted to District Judge Donovan W. Frank on or before **March 16, 2018**.
- b. All responses to trial-related motions must be filed on or before **March 30, 2018**.
- c. The parties' trial briefs, voir dire questions, and jury instructions must be submitted on or before **April 9, 2018**.
- d. This case will commence trial on **April 23, 2018**, at **9:00 a.m.** before District Judge Donovan W. Frank in **Courtroom 7C**, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, Saint Paul, Minnesota.

IT IS FURTHER ORDERED that all time between Mr. Adams's arraignment, March 31, 2017, and the new trial date, April 23, 2018, shall be excluded from the Speedy Trial Act computations in this case.

Date: May 18, 2017

s/ Katherine Menendez
Katherine Menendez
United States Magistrate Judge